

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

SIMPLEX MANUFACTURING CO.,	)	
	)	
Plaintiff,	)	No. 3:11-cv-00224-JO
	)	
v.	)	<u>O R D E R</u>
	)	
STEPHEN P. DANIELS, an individual,	)	
	)	
Defendant.	)	

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JONES, Judge:

This action for breach of contract, unfair competition, and injunctive relief is before the court on defendant's motion (# 54) for summary judgment. Specifically, defendant seeks a determination as a matter of law that plaintiff's claims all fail for insufficient evidence that plaintiff suffered or will suffer damages as a result of defendant's actions.

In seeking summary judgment solely on damages, defendant admits that "many of the operative facts alleged in the complaint are contested and may constitute issues of fact. . . ." Memorandum in Support of Defendant's Motion, p. 1. I decline at this juncture to reach past key issues of liability to address the adequacy of plaintiff's evidence of damages, as defendant proposes I do. If plaintiff has withheld discoverable evidence of damages, or if plaintiff indeed

lacks any evidence of damages whatsoever as defendant suggests,<sup>1</sup> the lack of evidentiary support will defeat plaintiff's claims at the time of trial. In the meantime, defendant's motion (# 54) is DENIED.

IT IS SO ORDERED.

DATED this 23 day of July, 2012.



ROBERT E. JONES  
U.S. District Judge

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<sup>1</sup> In any event, the record before me is not nearly as compelling on lack of damages as defendant contends.